



UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

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In re application of
Serge Magnet : DECISION ON
Serial No. 09/782,562 : PETITION
Filed: February 13, 2001 :
For: UV RESISTANT RESIN FOR PARAFFINIC SOLVENT BASED PAINT :

This is a response to the PETITION UNDER 37 C.F.R. §181 TO WITHDRAW THE HOLDING OF ABANDONMENT, filed November 10, 2003. The petition requests that the abandonment, as set forth in the Notice of Abandonment of September 11, 2003, for failure to timely pay the issue fee as indicated in Notice of Allowability and Notice of Allowance and Issue Fee Due mailed May 01, 2003 be withdrawn. The petitioner asserts that the Notice of Allowability and Notice of Allowance and Issue Fee Due were not received by applicant.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. § 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action. See MPEP 711.03(c)(II).

A review of the petitioner's evidence indicates that the request cannot be granted. As set forth in MPEP 711.03(c) II- PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION :



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The showing required to establish the nonreceipt of an Office communication must include a statement from the practitioner stating that Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement. (emphasis added)

The evidence presented is insufficient to establish that the above noted Notice of Allowability and Notice of Allowance and Issue Fee Due were not received by the petitioner. The evidence provided includes a statement by the petitioner that the Notice of Allowance was never received by the offices of THE GOODYEAR TIRE & RUBBER COMPANY (Akron Ohio), which was the addressee of record on May 01, 2003. This fact was verified by a communication between a representative of THE GOODYEAR TIRE & RUBBER COMPANY and a representative of ELIOKEM (the current assignee) on or before October 21, 2003.

However, the instant petition does not contain a statement attesting that a search of the file jacket and docket records was made, and the result of such search revealed that the Notice of Allowability and Notice of Allowance and Issue Fee Due of May 01, 2003 were not received and it fails to submit a copy of the docket record where the nonreceived Notice of Allowability and Notice of Allowance and Issue Fee Due would have been entered had it been received.

The instant petition was accompanied by \$110.00 as a petition fee. However, a petition of this type does not require a \$110.00 petition fee. Therefore, a refund of



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the \$110.00 may be obtained by directing a copy of this decision along with a written request for such a refund to the Office of Finance.

Accordingly, this application stands abandoned.

The Petition is **DENIED**.

Jacqueline Stone
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